

Under the new Drug Table, the revised Base Offense Level for that quantity of crack cocaine is 26 (28 to 112 grams of crack cocaine). After the 3-level reduction for acceptance, the revised Total Offense Level is 23. In combination with the Criminal History Category of IV, the revised Guideline range is 70-87 months.

But Guideline § 1B1.10 has also been revised. Now it prohibits any sentence below the new Guideline range, except pursuant to a government motion to depart downward for substantial assistance, not applicable here. § 1B1.10(b)(2)(B). Since my original variant sentence was 70 months and since the bottom of the new Guideline range is 70 months, Dingle-Jones can get no further reduction. If there were any ambiguity in the text (and there is none), the Comments are pellucid. See U.S. Sentencing Guidelines Manual § 1B1.10 cmt. n.3 (2011). See also U.S. Sentencing Guidelines Manual § 1B1.10 cmt. background (2011) (“proceedings under section 3582(c)(2) are not governed by United States v. Booker, 543 U.S. 220 (2005), and this policy statement remains binding on courts in such proceedings”); U.S. Sentencing Guidelines Manual § 1B1.10 Appendix C (Vol. III) Amendment 759-Reason for Amendment.

The motion is **DENIED**.

SO ORDERED.

DATED THIS 9TH DAY OF NOVEMBER, 2011

/s/D. Brock Hornby
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE